Remarks

Claims 1 – 11 and 24 – 28 remain pending. Claims 13 – 23 and 29 – 40 are to be withdrawn from further consideration. New claims 41 – 43 have been added herein.

1. Elections / Restrictions:

Applicant affirms the election to prosecute the invention of claims 1 – 12 and 24 – 28.

2. Claim Rejections 35 U.S.C. §112

Claim 12 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 has been canceled.

3. Claim Rejections 35 U.S.C. §103

Claims 1-12 and 24-28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rehbein in view of Clear and Morana (EP 0 485297A1).

It is submitted that Rehbein, Clear, and Morana combined fail to disclose, teach or suggest an apparatus according to the present invention.

The combination of Rehbein, Clear and Morana, even if proper, would fail to yield the apparatus of the present claims, e.g., a plurality of joists, a plurality of modular panels as specified, and a spline to engage a groove in the panel to secure the panel to the deck structure.

Regarding claims 1 – 11, the combination of Rehbein, Clear and Morana, even if proper, would fail to teach or suggest an underlying deck structure including a plurality of joists, a plurality of modular building panels, each of said plurality of building panels including a first element being relatively inflexible and of a material selected from among the group including: stone, mineral, tile, and concrete product, and further including a second element of a fiber-reinforced composite material, said second element being disposed beneath the first element and

coupled thereto, said second element supporting the building panel upon two of the plurality of joists, each of said building panels further including at least one groove, and a spline engaging a groove in the building panel to secure the building panel to the underlying joists.

Regarding claims 24-28, the combination of Rehbein, Clear and Morana, even if proper, would fail to teach or suggest a deck structure having a deck frame including a series of joists, each panel being of a layered construction including a top element and a bottom element and each panel having a groove, and a spline engaging a pair of grooves of an adjacent pair of panels, said spline being secured to the underlying joists to secure the pair of panels to the deck structure.

4. Double Patenting

Claims 1 – 12 and 24 – 28 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 19 of applicant's copending Application No. 09/608,816. A terminal disclaimer in compliance with 37 CFR 1.321 (c) is filed herewith to overcome this rejection.

5. Request for Reconsideration and Allowance

Based upon the above Amendments and Remarks, claims 1-11, 24 – 28 and 41 – 43 are believed to be in proper form for allowance. Applicant respectfully requests reconsideration of those claims and a prompt Notice of Allowance thereon.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached pages are captioned "Version with markings to show changes made."

Please direct any questions or comments regarding this application to John F. Klos at (612) 321-2806.

Respectfully submitted,
John Potter, by his attorneys,

Date: November 26, 2002

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CERTIFICATE OF MAILING UNDER 37 CFR 1.8: I hereby certify that this paper and any papers referred to herein are being deposited with the U.S. Postal Service, as first class mail, postage prepaid, addressed to the Commissioner for Patents and Trademarks, Washington, D.C. 20231 on November 26, 2002.

John F. Klos

VERSION WITH MARKINGS TO SHOW CHANGES MADE (11/25/02)

In the claims:

Please amend the claims as follows:

1. (amended) A deck structure comprising:

an underlying deck structure including a plurality of joists; [and]

a plurality of modular building panels [for engaging the plurality of joists], each of said plurality of building [panel] panels including a first [substantially planar] element being relatively inflexible and of a material selected from among the group including: stone, mineral, tile, and concrete product, and further including a second [substantially planar] element of a fiber-reinforced composite material [different than the first planar element], said second [planar] element being disposed beneath the first [planar] element and coupled thereto, [said second planar element having a predetermined total area,] said second [planar] element supporting the building panel [deck panel upon the deck structure at a panel support area, said panel support area being substantially smaller than the predetermined total area, and said second planar element carrying substantially all of a tensile load imposed upon the deck panel] upon two of the plurality of joists, each of said building panels further including at least one groove; and

a spline engaging a pair of grooves of an adjacent pair of building panels, said spline being secured to at least one of the plurality of joists to secure the pair of building panels to the deck structure.

2. (amended) A deck structure of claim 1 wherein the first [planar] element is adhesively secured to the second [planar] element.

3. (amended) A deck structure of claim 1 wherein the [second planar element is of a composite material] the first element and the second element are each generally planar.

4. (amended) A deck structure of claim [3] 1 wherein the fiber-reinforced composite material includes a material selected from the group including: KEVLAR, carbon fiber, and fiber glass.

6. (amended) A deck structure of claim 1 wherein the [panel support are is proximate a periphery of the deck panel] spline is aligned generally perpendicular to the joists.

7. (amended) A deck structure of claim 1 wherein the [panel support area is proximate a pair of opposed edges of the deck panel] spline is aligned generally parallel to a joist.

8. (amended) A deck structure of claim 1 wherein the second [planar] element includes a rib structure.

9. (amended) A deck structure of claim 1 wherein the second [planar] element defines an interior region along at least a pair of edges.

10. (amended) A deck structure of claim 1 wherein the first [planar] element and the second [planar] element are equivalent in size.

11. (amended) A deck structure of claim 1 wherein the first [planar] element and the second [planar] element are generally square in shape.

Delete claim 12.

24. (amended) A deck structure comprising:

a deck frame including a series of [transversely extending] joists [arranged at a uniform close spacing in the longitudinal direction of the deck structure; and];

a [series] plurality of modular panels arranged in a substantially abutting relationship [overlying and secured to said joists], each panel being of a [composite] layered construction including a top [side] element and a bottom [side] element, [each panel including a first layer element defining the top side and] said top element being of a material providing substantial compressive strength and limited tensile strength, [each panel further including a second layer element defining the bottom side and coupled to the first layer element, said second layer element of a material providing substantial tensile strength, the panels being arranged longitudinally such

that they abut over said joists, the abutting ends of the panels being secured to the underlying joists by a fastening structure] said bottom element being of a fiber-reinforced material, each panel having a groove; and

a spline engaging a pair of grooves of an adjacent pair of panels, said spline being secured to at least one of the joists to secure the pair of panels to the deck frame.

25. (amended) A deck structure according to claim 24 wherein the [abutting edges of said panels are recessed to receive and be spanned by a spline element that is secured to the underlying joist by a suitable fastener] spline is aligned generally parallel to a joist.

26. (amended) A deck structure according to claim 24 wherein the [abutting edges of said panels cooperate with an elongated panel support element secured to the underlying joist by a suitable fastener] spline is aligned generally perpendicular to a joist.

27. (amended) A deck structure according to claim 24 wherein [the elongated panel support element is secured along a top surface of the underlying joist] each panel includes a plurality of grooves.

28. (amended) A deck structure according to claim [24] 27 wherein [the elongated panel support element is secured perpendicular to a top surface of the underlying joist] each panel is engaged by a pair of splines.

41. (new) A method of building a deck structure comprising the steps of:

providing a deck frame including a series of joists;

providing a plurality of modular panels, each panel being of a layered construction including a top element and a bottom element, said top element being of a material providing substantial compressive strength and limited tensile strength, said bottom element being of a fiber-reinforced material, each panel having at least one groove;

providing a spline element;

placing a panel atop at least two joists of the deck frame;

inserting the spline element into a groove of the panel; and

securing the spline element to one or more joists to connect the panel to the deck frame.

42. (new) A method of building a deck structure of claim 41 further comprising the steps of :

providing a second spline element;

inserting the second spline element into another groove of the panel;

securing the second spline element to one or more joists.

43. (new) A method of building a deck structure comprising the steps of:

providing a deck frame including a series of joists;

providing a plurality of modular panels, each panel being of a layered construction including a top element and a bottom element, said top element being of a material providing substantial compressive strength and limited tensile strength, said bottom element being of a fiber-reinforced material, each panel having at least one groove;

providing a plurality of panel support elements;

attaching a pair of panel support elements to a pair of joists;

providing a spline element;

placing a panel upon the pair of panel support elements;

inserting the spline element into a groove of the panel; and

securing the spline element to one or more joists to connect the panel to the deck frame.